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# Message Text

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44
ACTION NEA-10

INFO OCT-01 ISO-00 EB-07 ERDA-05 AID-05 CEA-01 CIAE-00

CIEP-01 COME-00 DODE-00 FEAE-00 FPC-01 H-02 INR-07

INT-05 L-03 NSAE-00 NSC-05 OMB-01 PM-04 USIA-06

SAM-01 OES-03 SP-02 SS-15 STR-04 TRSE-00 AGR-05

FRB-03 LAB-04 PA-01 TAR-01 PRS-01 OPIC-03 XMB-02 /109 W
---------- 120083
P 251030Z SEP 75
FM AMEMBASSY COLOMBO
TO SECSTATE WASHDC PRIORITY 3483

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EO 11652: N/A
TAGS: EINV, ETRD, CE, MV
SUBJ: SRI LANKA GSP ELIGIBILITY: ESSO CLAIM AGAINST

REF: A) STATE 227048 B) STATE 218932 C) COLOMBO 332

1. SUMMARY: SINCE REF B SENT, THERE HAS BEEN NO REAL PROGRESS IN ESSO EASTERN COMPENSATION CLAIM AGAINST CEYLON PETROLEUM CORP (CPC) FOR ASSETS VESTED IN 1970/71. ESSO SHAREHOLDERS REP IN BOMBAY HAS JUST WRITTEN STRONG LETTER TO CPC CHAIRMAN REQUESTING EARLY SATISFACTORY CONCLUSION AND RESUMPTION NEGOTIATIONS IN LATE OCT. IN SUPPORT, WE WILL BE MAKING REPRESENTATIONS SOON TO CPC AND TO APPROPRIATE GSL MINISTERS TO SPEED NEGOTIATIONS TOWARD EARLY MUTUALLY SATISFACTORY CONCLUSION. ALTHOUGH LONG DELAY RAISES QUESTION OF "PROMPTNESS", IN CONTEXT 1974 TRADE ACT, WE BELIEVE GSL AND CPC SHOULD BE REGARDED AS CONTINUING "GOOD FAITH NEGOTIATIONS" AND "OTHERWISE TAKING STEPS TO DISCHARGE ITS OBLIGATIONS" (502 (4) (D) (II)).
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END SUMMARY.

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2. HERE IS CHRONOLOGY SINCE JANUARY:
MARCH 5, 1975: A.G. NEFF, ESSO SHAREHOLDERS
REP FROM BOMBAY MET IN COLOMBO
WITH CPC CHAIRMAN COOMARASWAMY TO CONTINUE
NEGOTIATIONS ON ESSO CLAIMS SUBMITTED IN
JUNE 1974. (PREVIOUS MEETINGS WERE IN
AUGUST 1974 AND JANUARY 1975.) ALTHOUGH
DETAILS OF VALUATIONS, METHOD OF PAYMENT,
TAXATION, ETC. WERE DISCUSSED, CPC DID NOT
SUBMIT FORMAL COUNTERCLAIM, SAYING
THAT PHYSICAL ASSETS WOULD HAVE TO BE REEVAL-
UATED BY CHIEF GOVT VALUER (NOW IN FINANCE MINISTRY)
EVEN THOUGH THEY HAD ALREADY BEEN ASSESSED BY EXPERT
VALUER BY MUTUAL AGREEMENT. EARLY APRIL,
1974 EMBASSY ECONOMIC OFFICER CALLED ON CPC
CHAIRMAN TO DISCUSS STATUS OF COMPENSATIONS
CLAIM. HE URGED SPEED AND MENTIONED
SPECIFICALLY TRADE ACT LANGUAGE. LATE JUNE
1975: NEFF REQUESTED MEETING WITH CPC
THROUGH LOCAL REP BUT WAS TOLD
REEVALUATION NOT COMPLETED. NEFF
WENT ON LEAVE JULY THROUGH MID-AUGUST.
LATE AUG: EMBASSY ECONOMIC OFFICER
CALLED ON SECRETARY OF MINISTRY OF EXTERNAL AND
INTERNAL TRADE TO DISCUSS 1974 ACT INCOUDING
IMPLIATION OF OUTSTANDING ESSO CLAIM FOR
SRI LANKA GSP ELIGIBILITY. AT SAME TIME
NEFF AGAIN PROPOSED TO VISIT CPC TO CONTINUE
NEGOTIATIONS BUT ESSO LOCALFEPRESENTATIVE AND
EMBASSY AGREED THAT GSL POLITICAL CRISIS THEN
REACHING CLIMAX MADE VISIT INADVISABLE.
(PRIME MINISTER EXPELLED THREE TROTSKYITE
MARXIST CABINET MINISTERS IN EARLY SEPTEMBER. SITUATION
HAS SINCE SETTLED DOWN BUT ISSUE OF AMERICAN
INFLUENCE HERE AND WHOLE QUESTION OF NATIONALI-
ZATION AND COMPENSATION TO FOREIGN COMPANIES
REMAINS POLITICALLY SENSITIVE.)

3. SEPT 11, 1975: NEFF WROTE CHAIRMAN
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COOMARASWAMY STRONG CLEAR LETTER POINTING
OUT THAT UNSETTLED CLAIM PERIOD RUNS AT
MAXIMUM FOUR YEARS FROM LAST CPC VESTING
IN JANUARY 1972 AND AT LEAST TWO YEARS SINCE
DECEMBER 1973 WHEN GSL PROMULGATED LAW
REQUESTING COMPANIES SUBMIT FORMAL CLAIMS AND
AUTHORIZING CPC TONEGOTIATE. LETTER ASKS
IF CHIEF GOVT VALUER HAS PROGRESSED AND SUGGESTS

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THAT ORIGINAL VALUATION BE USED. LETTER SUGGESTS
NEFF MEET COOMARASWAMY IN THIRD OF FOURTH WEEK OF
OCTOBER. FYI FOLLOWING NEGOTIATIONS TO DATE
ESSO'S BASIC CLAIM NOW IS FOR ABOUT SRI LANKA RS
4.5 MILLIO WHICH WOULD BE ABOUT US $600,000 AT
CURRENT OFFICIAL RATE OR ABOUT US $360,000 AT
CURRENT PREMIUM RATE. ALTHOUGH RATE TO BE
USED REMAINS FOR NEGOTIATION, LATTER IS MOST
LIKELY.

4. ALTHOUGH WE HAVE REPEATEDLY ENCOURAGED CPC
AND OTHER APPROPRIATE GSL OFFICIALS TO
FACILITATE ESSO COMPENSATIONS AND HAVE
MENTIONED ITS POTENTIAL EFFECT ON GSP ELIGIBILITY,
WE BELIEVE CONTINUED DELAY AND NEFF'S
EXPLICIT LETTER MAKE IT APPROPRIATE FOR US
TO MAKE STRONGER HIGHER LEVEL APPROACH. WE
ARE REQUESTING MEETING WITH CPC CHAIRMAN TO
DETERMINE REACTION TO LETTER. IF IT
APPEARS USEFUL WE WILL MAKE FORMAL REPRESENTATIONS
AT APPROPRIATE LEVELS AND MINISTRIES
TO SPEED THIS NEGOTIATION.

5. CONCERNING 1974 TRADE ACT GSP ELIGIBILITY,
WE DO NOT QUESTION GSL'S AND CPC'S DE JURE
(AND DE FACTO) INTENT TO NEGOTIATE AND TO
COMPENSATE. TIME NOW PAST SINCE NATIONALIZATION
OF ESSO ASSETS AND PRESENTATIONOF FORMAL
CLAIMS RAISES QUESTION OF PROMPTNESS WHILE
ADEQUCY AND EFFECTIVENESS REMAIN TO BE SEEN.
CIRCUMSTANCES MITIGATING DELAY INCLUDE (A)
CPC'S EXTREMELY LIMITED EXECUTIVE STAFF WHICH
HAS HAD TO DEAL WITH OIL CRISIS AND ACTIVE OIL
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EXPLORATION PROGRAM LAST TWO YEARS; (B) STRONG
POLITICAL OVERTONES OF NATIONALIZATION/COMPENSATION ISSUE
AND (C) GSL'S CHRONIC SEVERE SHORTAGE OF FOREIGN
EXCHANGE TO COMPENSATE ANYONE. IN CONCLUSION WE
BELIEVE CPC AND GSL HAVE MET STANDARD OF 502 (4) (D)
(II) BUT WE WILL PRESS FOR EARLY MUTUALLY SATISFACTORY
CONCLUSION THIS OUTSTANDING ISSUE. WE DO NOT SEE
THAT 502 (B) (6) APPLIES.

6. FOR NEA/INS THIBAULT: ACCORDING ESSO COLOMBO
REP, NEFF LEAVES BOMBAY SEPT 25 FOR NEXT SEVERAL
WEEKS DURING WHICH HE WILL BE IN HOUSTON REPORTING
TO HIS PRINCIPLES ON ESSO INTERESTS THISNREGION,
INCLUDING SRI LANKA. HE CAN BE CONTACTED THROUGH
MR D.E. OWENS, CONTACT DIRECTOR FE REGION, ESSO

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EASTERN INC (TELEPHONE 713 221-7211), HOUSTON, TEXAS.
WOULD YOU PLEASE INFORM NEFF THAT WE HAVE COPY HIS
SEPT 11 LETTER TO CPC AHAIRMAN AND WILL BE
ACTIVELY SUPPORTING ESSO CLAIM DURING NEXT SEVERAL
WEEKS.

7. CONCERNING PARA 2, REF C, ALTHOUGH SOME
DISAGREEMENT CONTINUES BETWEEN GSL AUTHORITIES
AND PFIZER, OUR CONCLUSION REMAINS SAME AS IN PARA 2 REF C.
(SEE COLOMBO 1112 FOR LAST STATUS REPORT.)
VAN HOLLEN

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# Message Attributes

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**To:** STATE
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